

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

In the Matter of the Search of:

INFORMATION THAT IS STORED AT
PREMISES CONTROLLED BY GOOGLE,
1600 AMPITHEATRE PARKWAY,
MOUNTAINVIEW, CALIFORNIA 94043

Cause No. 22-MR-0633

**UNITED STATES' RESPONSE TO
GOOGLE LLC'S MOTION TO QUASH SEARCH WARRANT**

On April 21, 2022, this Court authorized the Federal Bureau of Investigation to serve a search warrant upon Google LLC demanding that it provide certain data within its possession and control. In response, Google LLC filed a motion to quash the search warrant arguing that it was overbroad, lacked particularity, and did not set forth probable cause. [Doc. 10; filed July 11, 2022]. At the heart of Google's claim is that the Geofence radius – in this case, 300 meters circling three separate and identified coordinates – amounts to a general search that is inconsistent with the Fourth Amendment.

The United States disagrees. Indeed, the Government unequivocally maintains that the warrant is perfectly consistent with the mandates of the Fourth Amendment and that United States Magistrate Judge Steven Yarbrough properly authorized the search. But, in a good-faith effort to resolve this contested issue, the Federal Bureau of Investigation withdrew the search warrant on July 11, 2022. [Doc. 13]. As such, there is no longer a case or controversy before this Court thereby rendering the current motion moot. *Seneca-Cayuga Tribe of Okla. v. Nat'l Indian Gaming Comm'n*, 327 F.3d 1019, 1028 (10th Cir. 2003) (federal courts [may] only decide

actual, ongoing cases or controversies). In its place, the United States anticipates that the Federal Bureau of Investigation will submit an amended search warrant application and affidavit to the Court.

For this reason, the United States respectfully request that the Court deny *Google LLC's Motion to Quash Search Warrant* as moot.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on July 12, 2022, I filed the foregoing document electronically through the CM/ECF system, which caused counsel for Google LLC to be served by electronic means, as more fully reflected in the Notice of Electronic Filing:

/s/ Jack E. Burkhead
Jack E. Burkhead
Assistant United States Attorney